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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,284	04/24/2000	Robert David Freeman	M-8745 US	8129
7590	12/29/2003		EXAMINER	
Theodore P Lopez MacPherson Kwok Chem & Heid LLP 2001 Gateway Place Ste 195E San Jose, CA 95110			CAO, ALLEN T	
			ART UNIT	PAPER NUMBER
			2652	
			DATE MAILED: 12/29/2003	
			10	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/557,284	FREEMAN ET AL.
	Examiner Allen T Cao	Art Unit 2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 April 2000.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-88 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-39, drawn to an optical disk drive having detail description of the actuator and optical pickup unit, classified in class 369, subclass 222.
 - II. Claims 64-71, drawn to an optical disk drive having detail description of the optical medium, classified in class 369, subclass 275.2.
 - III. Claims 72-88, drawn to a method for reading data from or writing data to an optical disk, classified in class 369, subclass 284.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions III and I-II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the invention I and II can be used a different method for reading data from or writing data to an optical disk that does not require the steps of "pivoting the rotary actuator to position the optical pick up unit in substantially two dimensions relative to the surface of the disk" as described in the invention III.
4. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as "optical medium means ... with the light impinging on said information layer before it impinges on said substrate"; on the other hand, invention I has separate utility such as detail description of the pick up unit and actuator. See MPEP § 806.05(d).

5. Because these inventions are distinct for the reasons given above and the search required for Group III is not required for Groups I and II, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Groups I and III, restriction for examination purposes as indicated is proper.

7. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II and III, restriction for examination purposes as indicated is proper.

8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen T Cao whose telephone number is (703) 305-3796. The examiner can normally be reached on Tues - Fri (7:30 - 6:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7201.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.



Allen Cao
Primary Examiner

AC

December 23, 2003